

1 GREGORY L. WATTS (WSBA #43995)
STEPHANIE L. JENSEN (WSBA #42042)
2 MARY ZOU (WSBA #58082)
Wilson Sonsini Goodrich & Rosati, P.C.
3 701 Fifth Avenue, Suite 5100
Seattle, WA 98104-7036
4 Telephone: (206) 883-2500
Facsimile: (206) 883-2699
5 Email: gwatts@wsgr.com
Email: sjensen@wsgr.com
6 Email: mzou@wsgr.com

7
8 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

9
10 NATIONAL CENTER FOR PUBLIC
POLICY RESEARCH,

11 Plaintiff,

12 v.

13 HOWARD SCHULTZ, STARBUCKS
CORPORATION, KEVIN JOHNSON,
JOHN CULVER, RACHEL RUGGERI,
14 TED ADAMS, TYSON AVERY, KELLY
BENGSTON, BRADY BREWER, DENNIS
BROCKMAN, GEORGE DOWDIE, JEN
FRISCH, SHANNON GARCIA, RACHEL
15 GONZALEZ, ZABRINA JENKINS, A.J.
JONES, II, SARA KELLY, JENNIFER
KRAFT, ANGELA LIS, CARL MOUNT,
16 DENISE NELSEN, ANJU RAO, KYNDRA
RUSSELL, DEBBIE STROUD, ROSANN
WILLIAMS, GINA WOODS, MELLODY
17 HOBSON, RICHARD E. ALLISON, JR.,
ANDREW CAMPION, MARY N.
DILLON, ISABEL GE MAHE, JORGEN
18 VIG KNUDSTORP, SATYA NADELLA,
JOSHUA COOPER RAMO, CLARA
19 SHIH, AND JAVIER G. TERUEL,

20 Defendants.

Case No. 2:22-cv-267

**DEFENDANTS' NOTICE OF
REMOVAL**

[REMOVED FROM SPOKANE
COUNTY SUPERIOR COURT
CASE NO. 22-2-02945-32]

21
DEFENDANTS' NOTICE OF
REMOVAL

WILSON SONSINI GOODRICH & ROSATI
701 Fifth Avenue, Suite 5100
Seattle, WA 98104-7036
Tel: (206) 883-2500
Fax: (206) 883-2699

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1332, 1367, 1441, and 1446, Defendants Howard Schultz, Starbucks Corporation (“Starbucks”),¹ Kevin Johnson, John Culver, Rachel Ruggeri, Ted Adams, Tyson Avery, Kelly Bengston, Brady Brewer, Dennis Brockman, George Dowdie, Jen Frisch, Shannon Garcia, Rachel Gonzalez, Zabrina Jenkins, A.J. Jones, II, Sara Kelly, Jennifer Kraft, Angela Lis, Carl Mount, Denise Nelsen, Anju Rao, Kyndra Russell, Debbie Stroud, Rossann Williams,² Gina Woods, Mellody Hobson, Richard E. Allison, Jr., Mary N. Dillon, Satya Nadella, Joshua Cooper Ramo, Clara Shih, and Javier G. Teruel (together “Defendants”)³ hereby provide notice of removal of the state court action entitled *National Center for Public Policy Research v. Schultz, et al.*, currently pending in the Superior Court of Washington for Spokane County, Case No. 22-2-02945-32 (the “State Action”), to the United States District Court for the Eastern District of Washington.

¹ Plaintiff names Starbucks as a defendant in this matter, but appears to purport to bring claims on behalf of Starbucks, which would render Starbucks a nominal defendant.

² Plaintiff incorrectly spells Ms. Williams’s name as “Rosann Williams.”

³ Defendants Andrew Campion, Isabel Ge Mahe, and Jorgen Vig Knudstorp have not been served nor appeared in this action or the State Action.

I. BACKGROUND

On August 30, 2022, Plaintiff National Center for Public Policy Research commenced the State Action in the Superior Court of Washington for Spokane County. Exs. A (Civil Cover Sheet),⁴ B (“Complaint” or “Compl.”). Plaintiff is a purported stockholder of Starbucks. Compl. ¶ 10. Service was effectuated upon the Defendants on October 17, 2022. Jensen Decl. ¶ 3. There have been no further proceedings in the State Action, and no other pleadings have been filed or served upon Plaintiff or Defendants. *Id.* ¶ 4.

The Complaint brings multiple causes of action challenging certain Starbucks diversity and inclusion initiatives. First, the Complaint seeks declaratory judgments that these initiatives violate federal and state laws, including 42 U.S.C. § 1981, Title VII, and “relevant state-law enactments, including at least those of Washington, California, New Jersey, and New York,” and thus expose Starbucks to material potential liability. Compl. ¶¶ 72-124. Second, the Complaint alleges that Starbucks directors and officers breached their fiduciary duties to Starbucks in adopting and

⁴ Contrary to Washington State Superior Court Administrative Rule 2 and Spokane County Administrative Rule 0.4.1(b), Plaintiff failed to file a Case Information Cover Sheet or Spokane County Clerk Indexing Sheet with its Complaint. Defendants provide a Civil Cover Sheet here as Exhibit A.

1 implementing these initiatives. *Id.* ¶¶ 125-41. Third, the Complaint challenges these
 2 same initiatives as *ultra vires* acts. *Id.* ¶¶ 142-50. And finally, the Complaint seeks
 3 injunctive relief against the continuing use or implementation of these initiatives.
 4 *Id.* ¶¶ 151-60.

5 II. BASES FOR REMOVAL

6 The Complaint was served on October 17, 2022. This notice of removal is
 7 timely because it is filed within 30 days of that service. 28 U.S.C. § 1446(b). All
 8 served Defendants consent to the removal of the State Action.

9 ***Federal Question Jurisdiction.*** First, removal is proper under 28 U.S.C.
 10 § 1331 because certain of Plaintiff’s claims arise under the laws of the United States.
 11 Federal question jurisdiction exists over “civil actions arising under the Constitution,
 12 laws, or treaties of the United States.” 28 U.S.C. § 1331. “The general rule, referred
 13 to as the ‘well-pleaded complaint rule,’ is that a civil action arises under federal law
 14 for purposes of § 1331 when a federal question appears on the face of the complaint.”
 15 *City of Oakland v. BP PLC*, 969 F.3d 895, 903 (9th Cir. 2020) (citing *Caterpillar*
 16 *Inc. v. Williams*, 482 U.S. 386, 392 (1987)), *cert. denied sub nom. Chevron Corp. v.*
 17 *City of Oakland*, 141 S. Ct. 2776 (2021). Federal question jurisdiction is satisfied
 18 where the “‘complaint establishes either that federal law creates the cause of action
 19 or that the plaintiff’s right to relief necessarily depends on resolution of a substantial
 20 question of federal law.’” *Indep. Living Ctr. of S. Cal., Inc. v. Kent*, 909 F.3d 272,

278 (9th Cir. 2018) (quoting *Franchise Tax Bd. v. Constr. Laborers Vacation Tr. for S. Cal.*, 463 U.S. 1, 27–28 (1983)); *see also Sauk-Suiattle Indian Tribe v. City of Seattle*, No. 2:21-cv-1014, 2021 WL 4200173, at *1 (W.D. Wash. Nov. 9, 2021) (denying a motion to remand and finding federal question jurisdiction because the complaint sought declaratory and injunctive relief under RCW 7.24.010 that the presence and operation of the Gorge Dam violated state and federal law by blocking the passage of fish within the Skagit River, raising a substantial federal issue), *appeal filed*, No. 22-35000 (9th Cir. Jan. 3, 2022).

Here, the Complaint’s first cause of action seeks a declaration that the Starbucks initiatives violate 42 U.S.C. § 1981. Compl. ¶¶ 72-89. The Complaint’s second cause of action seeks a declaration that the Starbucks initiatives violate Title VII of the Civil Rights Act of 1964. *Id.* ¶¶ 90-99. The Complaint’s fourth cause of action seeks a declaratory judgment that these alleged violations of federal law “expose Starbucks to material potential liability.” *Id.* ¶¶ 109, 117, 118, 120, 124. The Complaint’s fifth and sixth causes of action assert that the individual defendants breached their fiduciary duties by adopting, implementing and retaining these initiatives allegedly in violation of federal law. *Id.* ¶¶ 125-141. The Complaint’s seventh cause of action asserts that the adoption, implementation, and retention of these initiatives constitute *ultra vires* corporate acts because they allegedly violate federal law. *Id.* ¶¶ 148, 150. The Complaint’s eighth cause of action seeks to enjoin

1 these initiatives because they allegedly violate federal law. *Id.* ¶¶ 154, 155, 160.
2 Thus, on the face of the Complaint, federal question jurisdiction exists for removal
3 of this action.

4 ***Diversity Jurisdiction.*** Second, removal is independently proper under 28
5 U.S.C. § 1332 because there is diversity of citizenship and the matter in controversy
6 exceeds \$75,000, exclusive of interest and costs. “[A] corporation shall be deemed
7 to be a citizen of every State . . . by which it has been incorporated and of the State
8 . . . where it has its principal place of business[.]” 28 U.S.C. § 1332(c)(1). As the
9 Supreme Court has explained, a company’s principal place of business is the state
10 where the company’s “officers direct, control, and coordinate [its] activities” and
11 “should normally be the place where [it] maintains its headquarters.” *Hertz Corp.*
12 *v. Friend*, 559 U.S. 77, 92-93 (2010).

13 Complete diversity exists between Plaintiff and Defendants in this action.
14 Plaintiff is a Delaware non-profit corporation, with its principal place of business in
15 Washington, D.C. Compl. ¶ 10. None of the Defendants are alleged to be residents
16 of Delaware or Washington, D.C. As the Complaint recognizes, Starbucks is a
17 Washington corporation with its principal place of business in Seattle, Washington.
18 *Id.* ¶ 11. Defendants Johnson, Schultz, Culver, Ruggeri, Adams, Avery, Bengston,
19 Brewer, Brockman, Dowdie, Frisch, Garcia, Gonzalez, Jenkins, Jones, Kelly, Kraft
20 Lis, Mount, Nelsen, Rao, Russell, Stroud, Williams, Woods, and Nadella are alleged
21

1 to be residents of Washington State. *Id.* ¶¶ 12-36, 44. Defendants Hobson and Shih
 2 are alleged to be residents of California. *Id.* ¶¶ 38, 46. Defendant Allison is alleged
 3 to be a resident of Michigan. *Id.* ¶ 39. Defendant Dillon is alleged to be a resident
 4 of Illinois. *Id.* ¶ 41. Defendant Ramo is alleged to be a resident of New York. *Id.*
 5 ¶ 45. Defendant Teruel is alleged to be a citizen of Mexico. *Id.* ¶ 47.⁵

6 The amount in controversy is also satisfied here based on Plaintiff's demand
 7 for damages related to the alleged breaches of fiduciary duties and *ultra vires* acts,
 8 including punitive damages, and attorneys' fees, costs, and expenses. *Id.* at 25. The
 9 notice of removal need only include a plausible allegation that the amount in
 10 controversy exceeds the jurisdictional threshold. *Dart Cherokee Basin Operating*
 11 *Co. v. Owens*, 574 U.S. 81, 89 (2014).

12 While Defendants deny that Plaintiff is entitled to *any* of the relief it seeks,
 13 Plaintiff's claims put more than \$75,000 in controversy. Here, Plaintiff seeks
 14 damages for losses allegedly suffered by Starbucks as a result of these challenged
 15 initiatives. Compl. ¶¶ 133, 150. Plaintiff alleges that the challenged initiatives "have
 16

17 ⁵ The unserved defendants are also alleged to have complete diversity from
 18 Plaintiff. Compl. ¶¶ 40 (Campion allegedly a resident of Oregon), 42 (Ge Mahe
 19 allegedly a resident of the People's Republic of China), 43 (Knudstorp allegedly a
 20 resident of the Kingdom of Denmark).

1 exposed Starbucks to the risk of a series of potential lawsuits, bringable by many
2 different parties, each of which has . . . the apparent right to recover both uncapped
3 real economic damages and uncapped punitive damages” and asks the Court “to
4 award Starbucks its damages for the losses suffered by Starbucks” as a result of these
5 purported violations. *Id.* ¶ 131, 133. Again, while the claims are disputed, it is
6 reasonable to presume that “a series of potential lawsuits” with “uncapped real
7 economic damages and uncapped punitive damages” under 42 U.S.C. § 1981, Title
8 VII, and state civil rights laws would exceed a total amount of \$75,000 in
9 controversy. In addition, one of the challenged initiatives is that Starbucks will
10 increase the amount it spends with diverse suppliers from \$800 million to \$1.5
11 billion by 2030, an increase in excess of \$75,000. *Id.* ¶ 53.

12 ***Supplemental Jurisdiction.*** Third, this Court should exercise supplemental
13 jurisdiction over Plaintiff’s third cause of action, for violation of various state civil
14 rights laws, and the state law components of Plaintiff’s other causes of action
15 because they “are so related to claims in the action within such original jurisdiction
16 that they form part of the same case or controversy.” 28 U.S.C. § 1367(a). The
17 Complaint’s various causes of action all challenge Starbucks diversity and inclusion
18 initiatives, and separately adjudicating the state and federal claims would be an
19 inefficient use of judicial resources. Thus, exercising supplemental jurisdiction over
20 Plaintiff’s state law claims is appropriate in this case. *See Sauk-Suiattle*, 2021 WL

5200173, at *4 (exercising supplemental jurisdiction over state law claims where the “various causes of action all center on a single, discrete issue”).

III. STATEMENT OF VENUE

The United States District Court for the Eastern District of Washington is the judicial district embracing the place where the State Action was originally filed by Plaintiff and is therefore the appropriate court for removal.

IV. CONCLUSION

For the above reasons, Defendants request that the State Action now pending in the Superior Court of Washington for Spokane County be removed to this Court.

Dated: November 7, 2022

Respectfully submitted,

By: s/ Gregory L. Watts

By: s/ Stephanie L. Jensen

By: s/ Mary Zou

Gregory L. Watts, WSBA #43995

Stephanie L. Jensen, WSBA #42042

Mary Zou, WSBA #58082

Wilson Sonsini Goodrich & Rosati, P.C.

701 Fifth Avenue, Suite 5100

Seattle, WA 98104-7036

Telephone: (206) 883-2500

Facsimile: (206) 883-2699

Email: gwatts@wsgr.com

sjensen@wsgr.com

mzou@wsgr.com

Counsel for Defendants Howard Schultz, Starbucks Corporation, Kevin Johnson, John Culver, Rachel Ruggeri, Ted Adams, Tyson Avery, Kelly Bengston, Brady Brewer, Dennis Brockman, George Dowdie, Jen Frisch, Shannon Garcia,

Rachel Gonzalez, Zabrina Jenkins, A.J. Jones, II, Sara Kelly, Jennifer Kraft, Angela Lis, Carl Mount, Denise Nelsen, Anju Rao, Kyndra Russell, Debbie Stroud, Rossann Williams, Gina Woods, Mellody Hobson, Richard E. Allison, Jr., Mary N. Dillon, Satya Nadella, Joshua Cooper Ramo, Clara Shih, and Javier G. Teruel

CERTIFICATE OF SERVICE

I certify that on this 7th day of November, 2022, I caused a copy of the foregoing Notice of Removal to be electronically filed with the Clerk of the Court using the CM/ECF system and emailed and mailed by first class United States mail, postage prepaid, to the following:

Joel B. Ard
P.O. Box 11633
Bainbridge Island, WA 98110
Joel@Ard.law
Counsel for Plaintiff

Dated: November 7, 2022

s/ Gregory L. Watts
Gregory L. Watts, WSBA #43995